



**Department of Corrections**  
**ADMINISTRATIVE BULLETIN**

**Subject: RETALIATION  
PREVENTION POLICY**

**Number:**

**98/09**

**Date Issued:**

**August 10, 1998**

**Cancelled Effective:**

### Purpose

The purpose of this Administrative Bulletin (AB) is to update the retaliation prevention policy of the California Department of Corrections (CDC) and to remind employees of their rights and responsibilities in ensuring a retaliation-free work environment.

### Statement of Commitment

It is the policy of CDC to maintain a work environment that is free of discrimination. Retaliation against an employee for engaging in protected activity is a form of discrimination that can deprive an employee of equal employment opportunities mandated by State and Federal laws. As Director of CDC, it is my responsibility to ensure that all CDC employees comply with laws precluding retaliation against employees for engaging in protected activity.

The primary purpose of retaliation prevention policies is to educate staff on what constitutes inappropriate conduct once a discrimination or improper practice complaint has been made by an employee, and to provide guidance to ensure that all staff are treated respectfully and in compliance with all applicable laws. The CDC will not tolerate any form of retaliation or reprisals against individuals who have engaged in protected activity.

### Introduction

Anti-discrimination statutes protect employees from not only unlawful employment practices, but also from retaliation for opposing an employer's discriminatory practices and for participating in proceedings to enforce statutory rights. Any such retaliation for engaging in protected activity, including but not limited to, making or filing a complaint, giving testimony, or otherwise participating in an investigation or hearing, is unlawful.

For purposes of this bulletin, the phrase "protected activity," is defined as complaining about unlawful employment practices or like wrongdoing, or participating in an investigation, hearing, or other proceeding related to purported unlawful employment practices or like wrongdoing.

### Retaliation Protection Provided by Statute

There exists a large body of statutory law in California that forbids retaliatory actions directed toward employees for engaging in protected activity. (Attachment A)



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### Scope of Protection


A number of anti-retaliation statutes protect not only the individual employee who engages in protected activity, but also those employees who participate in subsequent investigations, hearings or other proceedings concerning the protected activity in question. Moreover, applicants for employment are similarly protected from retaliatory practices by employers.

In short, CDC employees are legally entitled to, and will be protected from, retaliation for, engaging in protected activity. The following are examples of conduct which statutes and courts have determined may provide evidence of retaliation against an employee for engaging in protected activity:

- Denial of promotion;
- Denial of merit salary increase;
- Refusal to transfer an employee to a desired location/position, or involuntary transfer to an undesirable location/position;
- Formal or informal disciplinary action;
- Denial of requested and/or mandatory training opportunities; and
- Unfavorable performance reviews.

However, all employees who complain of purportedly unlawful employment practices or like wrongdoing must do so based upon a reasonable, good faith belief that wrongdoing has occurred, and that a nexus exists between the protected activity and the perceived act of retaliation. The anti-retaliation statutes will not insulate an employee from disciplinary action for making untruthful or vexatious accusations or complaints about non-existent unlawful employment practices or like wrongdoing.

Similarly, employees who participate in investigations, hearings, or other proceedings related to alleged unlawful employment practices or like wrongdoing, may be subject to disciplinary action for making statements or accusations that are not based upon a reasonable, good-faith belief by the employee that such statements or accusations are truthful.

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#### Process

Employees who believe they have been retaliated against for engaging in protected activity may file a complaint with, among others, the following offices/organizations:

- The CDC's Equal Employment Opportunity Office;
- The CDC's Labor Relations Branch;
- California's Department of Fair Employment and Housing;
- The Equal Employment Opportunity Commission;
- California's State Personnel Board;
- California's Department of Labor;
- The United States Department of Labor;
- California Public Employee Relations Board; and
- California Workers' Compensation Appeals Board.

Please inform all persons concerned of the contents of this AB that shall remain in effect until incorporated into the Department Operations Manual Section 31010, Equal Employment Opportunity. Please direct any inquiries regarding this bulletin to Carmen J. Ochoa, Assistant Director, at (916) 322-9520 or CALNET 492-9520.

C. A. TERHUNE  
Director  
Department of Corrections

Attachment